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Department for
Science, Innovation
& Technology

Department for Science, Innovation and Technology
100 Parliament Street
London
SW1A 2BQ

FOI-requests@dsit.gov.uk

www.gov.uk/dsit

Mr Owen Boswarva

Our reference:

FOI2024/00304

owen.boswarva@gmail.com

27 September 2024

Our response to your freedom of information request

Dear Mr Boswarva,

Thank you for your information request which we received on 30 August.

Your request

I would like to request some information related to the Open Address Register Programme. This was a joint project undertaken by HM Treasury, BEIS, and GDS in 2016, but I gather DSIT is now the department most likely to hold records of the programme.

I am in receipt of a redacted copy of the Non Royal Mail IP Open Address Register: Pilot Final Report, produced by Ordnance Survey in September 2016 and attached for reference. This was disclosed by DSIT in May 2024, to another FOI applicant (your reference FOI2024/07021).

Please provide the following information, if held:

- 1. A copy of the "Non RM-IP Address Register Solution paper" mentioned in the Pilot Final Report as submitted to the Open Address Register (OAR) Project Steering Board.*
- 2. An unredacted copy of the 2.3 Assumptions section on page 4 of the Pilot Final Report. Most of those assumptions were redacted by DSIT when the report was disclosed in May 2024, but in my view the basis for exempting that information is weak and likely to be weaker following the recent change of Government. Redaction of the assumptions on which the Pilot Final Report was prepared is a significant barrier to understanding and assessing the report.*
- 3. Any information (such as advice or analysis) related to the basis or extent of Royal Mail claims of ownership of intellectual property rights in data contained in Ordnance Survey's AddressBase.*

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We have responded to your request for recorded information under the Freedom of Information Act 2000 (FOIA).

Our response

We can confirm that the Department for Science, Innovation and Technology does hold some information in scope of your request. However, this information is withheld under Section 35(1)(a), Section 43(2), Section 42(1) and Section 40(2) of the FOIA.

Please note that we have set out FOI2024/07021 in **Annex A** for reference.

1. A copy of the "Non RM-IP Address Register Solution paper" mentioned in the Pilot Final Report as submitted to the Open Address Register (OAR) Project Steering Board.

This information is withheld under section 35(1)(a), section 42(1), section 43(2), and section 40(2) of the FOIA.

Section 35: Government policy

Some of the information you have requested is exempt from disclosure under section 35(1)(a) of the FOIA.

Section 35 states:

(1) Information held by a government department or by the Welsh Assembly Government is exempt information if it relates to-

(a) the formulation or development of government policy,

(b) Ministerial communications,

(c) the provision of advice by any of the Law Officers or any request for the provision of such advice, or

(d) the operation of any Ministerial private office.

The information you have requested falls into the category described in section 35(1)(a). Section 35 is a qualified exemption. With this in mind, we have considered the public interest for and against disclosure.

Public interest test

In this case the public interest factors in favour are:

- There is a public interest in the disclosure of information about the Open Address Register to ensure transparency and visibility of public bodies being held to account regarding decisions made. This can support the public to understand how government policy is formulated.
- Disclosure may also serve to widen the base of stakeholder and public engagement which may in turn assist in the development and scrutiny of policy formulation.

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The factors against are:

- Maintaining a safe space for government to develop its policy work in discussions held with third-party commercial partners in relation to the open address data.
- There is a strong public interest in ensuring that Ministers and officials are able to discuss policy options fully and frankly and for the space in which such discussions take place to be protected. If this information were made public, we believe the nature of such frank discussion and debates on key public policy issues would be inhibited, and the Department would be prevented from taking decisions based on the fullest understanding of the issues involved.
- It is clear that the government is at the start of a longer-term process of policy development with external stakeholders and will continue to require space and time to develop the open address data programme.

Having considered these factors, we are satisfied that it is appropriate to withhold the information.

Section 40(2): Personal data of third parties

Some of the information you have requested is exempt from disclosure under section 40(2) because of the condition at section 40(3A) of the FOIA.

Section 40(2) and (40(3A) state:

(2) Any information to which a request for information relates is also exempt information if-

(a) it constitutes personal data which does not fall within subsection (1), and

(b) the first, second or third condition below is satisfied.

(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act-

(a) would contravene any of the data protection principles, or

(b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

The department has obligations under data protection legislation, and in law generally, to protect personal data. This exempts personal data from release if disclosure would contravene any of the data protection principles in Article 5(1) of the UK General Data Protection Regulation and section 34(1) of the Data Protection Act 2018. Release would breach the first data protection principle since it would be unlawful and unfair to disclose the information.

As section 40 is an absolute exemption, the department is not required to carry out a public interest test.

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Section 42: Legal professional privilege

Some of the information you have requested is exempt from disclosure under section 42(1) of the FOIA.

Section 42 states:

(1) Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.

The information you have requested falls into the category described in Section 42(1). Section 42 is a qualified exemption. With this in mind, we have considered the public interest for and against disclosure.

Public interest test

In this case the public interest factors in favour are:

- There is a general public interest in the disclosure of information; greater transparency makes the government more accountable to the electorate; increases trust and also enables the public contribution to policy making to become more effective.

The factors against are:

- The Government needs to be able to receive comprehensive legal advice about the strengths and weaknesses of its position.
- Disclosure of such information could be prejudicial to Government's operations, and without open and candid legal advice, the ability of the Department and Ministers to assess the legal implications of possible courses of actions and to defend decisions from legal challenge would be compromised.
- There is a strong public interest in maintaining legal professional privilege in relation to such advice.

Having considered these factors, we are satisfied that it is appropriate to withhold the information.

Section 43: Trade secrets and prejudice to commercial interests

Some of the information you have requested is exempt from disclosure under section 43(2) of the FOIA.

Section 43 states:

(1) Information is exempt information if it constitutes a trade secret.

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

The information you have requested falls into the category described in Section 43(2). Section 43 is a qualified exemption. With this in mind, we have considered the public interest for and against disclosure.

Public interest test

In this case the public interest factors in favour are:

- We recognise that there is a general public interest in the disclosure of information, as greater transparency makes Government and decision making more open and accountable.

The factors against are:

- A prejudice of interests would be likely to occur if we disclosed this information. See: Christopher Martin Hogan and Oxford City Council v the Information Commissioner (EA/2005/0026 and 0030, 17 October 2006) (“Hogan”).
- Disclosure of such information would be likely to prejudice the interests of HM Government by damaging ongoing and future commercial relationships and negotiating positions for HMG with IPR owners in this area.
- There is significant public interest in the Department, and other Government departments, holding commercially sensitive information from and about companies which allows Government to fulfil its functions more effectively including as a buyer on behalf of the taxpayer. Disclosure of such commercially sensitive information would limit the amount of information of this nature that Government holds in future, limiting the effectiveness of Government activity, which is not in the public interest.
- It is important that companies and Government are able to have discussions relating to commercially sensitive information as this can play a key role in the Government formulating policy and understanding the challenges faced by companies as well as considering how to respond to those challenges. For such information to be shared, companies must be confident that, whilst the information remains commercially sensitive, the Government will treat the information with the appropriate care

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and seek to ensure that companies do not suffer unnecessary damage to their wider commercial interests and opportunities.

- Disclosure of this information would be likely to pose a substantive risk of harming commercial interests through damaged stakeholder relationships, and business confidence.

Having considered these factors, we are satisfied that it is appropriate to withhold the information.

- 2. An unredacted copy of the 2.3 Assumptions section on page 4 of the Pilot Final Report. Most of those assumptions were redacted by DSIT when the report was disclosed in May 2024, but in my view the basis for exempting that information is weak and likely to be weaker following the recent change of Government. Redaction of the assumptions on which the Pilot Final Report was prepared is a significant barrier to understanding and assessing the report.**

The information you have requested relates to the commercial considerations with intellectual property rights owners and therefore withheld under Section 43(2) of the FOIA. Section 43 is a qualified exemption. With this in mind, we have considered the public interest for and against disclosure as set out above.

- 3. Any information (such as advice or analysis) related to the basis or extent of Royal Mail claims of ownership of intellectual property rights in data contained in Ordnance Survey's AddressBase.**

The information you have requested consists of both internal and external legal advice provided to HM Government and therefore withheld under Section 42(1) of the FOIA. Section 42 is a qualified exemption. With this in mind, we have considered the public interest for and against disclosure as set out above.

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Annex A - FOI2024/07021



Annex A -
FOI2024-07021 FOI Review of Ordnance S



Annex A - The ODI
FOI Review of Ordnance S



Annex A - The Final
Report.pdf



Annex A - The Interim
Report.pdf



Annex A - The
Executive Summary.p

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Next steps

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days. You can contact us by emailing FOI-requests@dsit.gov.uk or by post at:

Information Rights Team
Department for Science, Innovation and Technology
100 Parliament Street
London
SW1A 2BQ

Please remember to quote the reference number above in any future communications.

If we perform a review but you are still dissatisfied, you can complain to the [Information Commissioners Office](#) (ICO).

You should make complaints to the ICO within six weeks of receiving the outcome of an internal review through the ICO website: www.ico.org.uk/foicomplaints.

Your information

Our [privacy notice](#) explains what we do with the personal information which you provide to us. Our [personal information charter](#) sets out the standards you can expect from the Department for Science, Innovation and Technology when we collect, hold or use your personal information.

Yours sincerely,

Department for Science, Innovation and Technology

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